DEC 10 1943
CHARLES ELMORE CROPLEY
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1943.

Nos. 534 - 535

SHELTON PITNEY and WALTER P. GARDNER, Trustees of The Central Railroad Company of New Jersey, a debtor,

Petitioners,

—against—

THE STATE OF NEW JERSEY, a Creditor,

Respondent.

SHELTON PITNEY and WALTER P. GARDNER, Trustees of The Central Railroad Company of New Jersey, a debtor,

Petitioners,

—against—

THE STATE OF NEW JERSEY, a Creditor, and the CITY OF JERSEY CITY,

Respondents.

PETITION FOR WRITS OF CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT AND BRIEF IN SUPPORT THEREOF.

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THE COURT PRESS, N. Y. C.

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Respondents.

Petition For Writs of Certiorari to the Circuit Court of Appeals for the Third Circuit.

To the Honorable the Chief Justice and the Associate Justices of the Supreme Court of the United States:

Shelton Pitney and Walter P. Gardner, the Trustees of The Central Railroad Company of New Jersey, a debtor corporation in bankruptcy under Section 77 of

the Bankruptcy Act, petition for writs of certiorari to review a decision of the Circuit Court of Appeals for the Third Circuit, reversing two orders of the United States District Court for the District of New Jersey, sitting in bankruptcy.

—

Jurisdiction.

The judgments of the Circuit Court of Appeals were entered May 27, 1943 (728-729); petitions for rehearing were denied July 15, 1943 (751-752). The time for filing petition for certiorari was extended 60 days by appropriate order (753). The jurisdiction of this Court is invoked under Section 240(a) of the Judicial Code; 28 U. S. Code, Section 347(a), as amended under Act of February 13, 1935.

The Nature of the Proceedings.

This case arises out of a sharp conflict between the Legislature of New Jersey and the Governor on one side, and the Attorney General on the other, involving a settlement of the State's claims for property taxes and interest penalties against the railroads operating in New Jersey, covering a period of some 10 years.

In the case of the Central Railroad, the claims amounted to some 20 millions, and on appointment of Trustees in January, 1940, the State filed proofs of claim in the Bankruptcy Court for that amount. In 1941, while the Trustees were contesting most of these claims in the State tribunals, the Legislature enacted a Settlement Act, amended by a second act in 1942, offering to settle these tax claims on condition that the railroads abandon all further contest over these taxes. The petitioners, by orders of the Bankruptcy Court, were directed to accept and did

accept. After enactment of and compliance by the Trustees with the first Settlement Act and before the second, the Attorney General, purporting to represent the people and not the State, started a proceeding in the Court of Chancery of New Jersey, attacking the constitutionality of the Settlement Act under the State constitution, and, upon the Bankruptcy Court directing compliance with the second Act, he appealed from the orders in the name of the State of New Jersey, although he had entered only a special and limited appearance in the proceeding, not in the name of the State but in his own name.

The Circuit Court reversed the orders and remanded with directions to await the outcome of the Chancery Court proceedings. The mandate failed to secure to the Trustees a remedy in any forum to contest the original claims should the Settlement Acts be held unconstitutional, as the Chancery Court has since ruled.

The Questions Presented.

(1) In a bankruptcy proceeding under Section 77, is the Bankruptcy Court devoid of jurisdiction to determine the validity and amount of taxes alleged by proof of claim filed by a state?

(2) Where Trustees in bankruptcy have been ordered to accept an offer of settlement made by a statute of the claimant State and to abandon, as demanded by the statute, all right of further contest, is the Bankruptcy Court thereafter debarred from determining for itself the validity and amount of the taxes claimed, when the statutes of settlement are later declared unconstitutional?

(3) In reversing the orders directing the Trustees to accept the second Act of Settlement, should not the Circuit Court of Appeals by its mandate have preserved to the Bankruptcy Court its right to review the claim

for taxes and to the Trustees their right of contest, when the surrender of such rights was made in good faith in reliance upon the Acts of Settlement?

(4) Has the Attorney General of a State standing to take an appeal in the name of the State from orders of a Bankruptcy Court based on a state statute, when in a State Court he, as attorney for the people, is engaged in attacking, not upholding, the statute, and in the bankruptcy proceedings enters a special appearance in his own name challenging the jurisdiction of the Bankruptcy Court over the constitutionality of the statute because at issue in the State Court, and accordingly really appears in his capacity as attorney for the people and not as attorney for the State?

(5) Did not the Circuit Court of Appeals err in reversing the orders in face of the established doctrine of local New Jersey law that a statute, though later declared unconstitutional, will support rights acquired in good faith under it, when the orders reversed were essential to preserve a material change of status arising out of action taken in reliance upon a legislative offer prior to any constitutional challenge?

(6) Is not a Bankruptcy Court entitled to accept as the law of the State a duly enacted statute, when on account of a time limit in the statute it must itself decide what the State law is, or else allow the statutory offer to lapse?

Summary Statement of Matter Involved.

The proofs of claim filed by the State of New Jersey covered the years 1932-1939, and were for a principal sum of $12,117,450 with penalty interest of $7,732,339. The claims were filed in the name of "State of New Jersey as

claimant", and were signed by the State Comptroller. They were disputed. When the 1940 taxes were assessed, the Trustees took an appeal to the appropriate State tribunal, thus bringing the taxes for 1940 also into dispute.

The first Settlement Act was enacted July 22, 1941 (N. J. P. L. of 1941, Chap. 290). The offer made by the State did not reduce the principal amount of the taxes claimed, but authorized payment over a period of twenty years, with interest at 3% per annum on unpaid balances, and cancelled the penalties. The statute required as a condition of acceptance that the railroads relinquish any right to review the assessments already made, including that for 1941, thus adding another year to the years for which the Trustees would be required to yield without contest.

The Trustees applied to the Bankruptcy Court for instructions in the premises, whereupon, by Order No. 123 of August 8, 1941, the Trustees were directed to tender the necessary certified checks and to waive all existing rights to contest outstanding assessments, in compliance with the State's offer (139a). This was done on August 11, 1941. The Attorney General arbitrarily refrained from passing on the sufficiency of the settlement papers, although his approval was purely a ministerial act.* The State Treasurer and State Comptroller, however, retained the checks and documents. Because of the Act and of Order No. 123, the Trustees allowed to lapse on August 13, 1941, their right of appeal from an adverse decision by the State Board of Tax Appeals involving taxes for 1937 and 1938 (*C. R. R. Co. of N. J. Appeal*, 19 N. J. Misc. 427; N. J. Rev. Stat. 54:29A-36), and waived their appeals for 1939, 1940 and 1941 (146a, 151a). At this date

* The authority of the Attorney General was merely to see that the documents were "in such form as the Attorney General may require" (N. J. P. L. of 1941, Chap. 290, Sec. 8).

there had been as yet no challenge to the validity of the Settlement Act.

On September 4, 1941, "David T. Wilentz, Attorney General of New Jersey," instituted a civil information suit in the Court of Chancery, naming the Treasurer as the sole defendant and praying for an injunction to restrain him from carrying out the provisions of the Settlement Act. No application was made to the Bankruptcy Court to make the Trustees of the debtor parties to the suit, nor was the Comptroller made a party, although he acted for the State in signing and verifying the proofs of claim (120a, 121a). Because of the attack by the Attorney General on the State law, the State was forced "to employ counsel other than and independent of the Attorney General" to defend the statute (644a).

On November 24, 1941, Order No. 135 was entered, confirming the action taken in compliance with the original Settlement Act and directing the Trustees to pay the taxes for 1941 without protest or contest (150a). Notice of the hearing on Order No. 135 was served upon the Attorney General, and, although he at that point was entitled to appear and object to the Order and to all proceedings taken prior thereto, he neither appeared nor raised any objection.

With the issue thus sharply drawn between the legislature and the Governor on the one hand, and the Attorney General on the other, the legislature on May 21, 1942, enacted and the Governor signed the so-called second Settlement Act (645a). This Act followed closely the terms of the first Act, but it prescribed the exact form of the settlement papers, and so left no ministerial duties to the Attorney General. In addition to waiving their right to contest assessments already outstanding, the Trustees were required to waive any right to contest a retroactive franchise tax for 1941 (enacted May 8, 1942)

amounting to $239,749. The Trustees were authorized to accept the State's offer simply by delivering the checks and documents to the Treasurer in the prescribed form.

The requirement of the amendatory act which precipitated this case and proved more vital than any other was that all steps necessary to comply had to be taken by June 15, 1942, thus allowing the Trustees only 25 days for consideration, for submission of the matters to the Bankruptcy Court, for instruction and for subsequent action.

Following the second Settlement Act, the Attorney General supplemented his civil information bill so as to challenge its constitutionality as well, and secured a temporary injunction restraining the State Treasurer from accepting all tenders of settlement.

On June 2, 1942, the Trustees filed a petition setting forth all the developments since the entry of Order No. 123, asked for instructions whether they should comply and, if so, for an adjudication of the amount of taxes due under the second Settlement Act. Orders to show cause were served upon the State Comptroller and the Attorney General, as well as all other parties to the proceeding. The State Comptroller appeared generally and stated that he did not "object to the entry of an order in the terms of the prayer of the petition" (79a, 220a). The Attorney General entered a special appearance which recited in part (54a, 153a):

> "I am the Attorney General of the State of New Jersey; I appear specially * * * and without submitting to any exercise of jurisdiction by this Court to determine the validity of [the Tax Settlement Acts]."*

* The appearance did not recite "on behalf of the State of New Jersey."

At the hearing on the order to show cause, the Attorney General orally moved (63a):

> "* * * to dismiss so much of the rule to show cause as seeks the adjudication of the constitutionality of Chapter 241 of 1942 [the second Settlement Act], or in the alternative to withhold any action until the state courts have disposed of the litigation * * *."

After hearing and argument, the Bankruptcy Court on June 12, 1942, issued Order No. 163, directing the Trustees to accept the State's offer in the Settlement Act, as amended, by delivering certified checks and again waiving all rights to contest the outstanding assessments, including the retroactive franchise tax for 1941; and adjudged that upon full compliance with the Settlement Act the debtor's tax liability would be discharged. By June 15, 1942, the Trustees had taken all steps necessary for acceptance. The Treasurer acknowledged receipt of all documents. Because of such acceptance and of Order No. 163, the Trustees paid the retroactive 1941 franchise tax and allowed to lapse their right to challenge such tax, although they deemed it invalid.

The Bankruptcy Court, at the insistent request of the Attorney General, inserted in Order No. 163 the express statement that "Nothing in this order contained shall be construed as passing upon the validity or invalidity of [the two Settlement Acts]" (23a), and entered the order on the principle that a legislative offer open for a limited period of time (then three days) must be taken as "the law of the State" (94a, 222a).

By letter dated June 15, 1942 (428a), the Trustees were notified that the State Board of Tax Appeals had increased the debtor's liability for 1939 by some $126,000 (212a) and had dismissed the debtor's appeal, previously abandoned by the Trustees pursuant to Orders No. 123 and 163. The Bankruptcy Court, on September 22, 1942,

entered Order No. 171, holding that the debtor's tax liability for 1939 was fixed by Order No. 163, and directing the Trustees not to seek a review of the judgment of the State Board as to 1939 (223a).

The Attorney General filed appeals in the name of the State from Orders No. 163 and 171, and the City of Jersey City appealed from Order No. 171 only (202a, 226a).

The Circuit Court, denying the Trustees' motions to dismiss the appeals, reversed both orders (728, 729). In respect of Order No. 163, it said that in spite of the District Court's disclaimer, the Court "passed upon the constitutionality of the tax settlement acts without giving the parties a hearing upon that question", and reversed the order (726). Order No. 171 was reversed because of its dependency on Order No. 163.

The directions on the remand, when taken with the statements in the opinion, place the Trustees in an impossible dilemma. The directions were "to await the determination by the Court of Chancery" on the constitutional question, unless prejudicial delay should result, in which event the Bankruptcy Court might hear and decide the issue (729). But neither mandate nor opinion covered the contingency of a finding of invalidity. Moreover, the Circuit Court's opinion contained a statement that if the Acts are unconstitutional the order would deprive the State of the "right to immediate collection of the whole of the principal and the interest on the delinquent taxes" (721), and, again, should the Acts be held invalid "the State of New Jersey will sustain a loss of $10,101,520.97 in interest" (725), thus implying that the entire principal and penalties claimed would become payable immediately and without more.

Yet the Circuit Court said that so much of Order No. 163 as authorized the Trustees to comply with the requirements of the legislative offer "will not be disturbed" (727),

while at the same time expressly stating that the tender, though acknowledged, was not accepted (due to the injunction against the Treasurer) "and consequently was without legal effect" (723). Such irreconcilable expressions create a confusion which is highly prejudicial.

The Trustees applied for a rehearing, which was denied. Since then, the Chancery Court has held the Acts unconstitutional as a remission of existing liabilities. *Wilentz* v. *Hendrickson*, 133 N. J. Eq. 447, 33 Atl. (2d) 366. The State Treasurer has appealed, but a decision by the Court of Errors and Appeals cannot be expected until late next spring at the earliest.

Reasons Why Writs of Certiorari Should Issue.

(1) The Circuit Court has decided important questions of Federal law which have not been but should be settled by this Court.

(a)

Under the decisions of this Court it is a fundamental principle that a taxpayer is entitled to a full hearing on contested claims for taxes, and the denial of such a right constitutes reversible error. *Brinkerhoff-Faris Co.* v. *Hill*, 281 U. S. 673 (1930). Under the decision and mandate of the Circuit Court, the debtor apparently is left without a remedy in any forum to contest the legality and amount of the taxes as originally asserted, if an eventuality occurs over which the Bankruptcy Court has no control, namely, a holding by the Chancery Court*

* The mandate in terms directs the District Court to follow the decree of "the Court of Chancery of the State of New Jersey" (729), although the case is now on appeal in the Court of Errors and Appeals. While this was undoubtedly an oversight, its existence in the mandate may well prove exceedingly embarrassing and prejudicial to the debtor, unless the mandate is corrected.

that the Settlement Acts are unconstitutional (as has now occurred).

Prior to the Settlement Acts, the Trustees were actively contesting in State tribunals the tax claims for the years 1937, 1938, 1939, 1940 and 1941, which involved a minimum principal saving of $5,951,000, as estimated by the Chancery Court, without regard to any interest savings. *Wilentz* v. *Hendrickson*, 133 N. J. Eq. 447, 483, 33 Atl. (2d) 366, 388. Because of the first Settlement Act and of Order No. 123 entered prior to any constitutional challenge, the Trustees allowed the time to lapse for appealing from an adverse decision of the State Board of Tax Appeals for 1937 and 1938 and waived their appeals for 1939, 1940 and 1941, thus losing rights which cannot be reinstated in the State tribunals. Because of the second Settlement Act and Order No. 163, the Trustees allowed to lapse their right to contest the 1941 retroactive franchise tax, and because of Order No. 171, the Trustees did not seek a review of the State Tax Board's decision increasing the taxes for 1939 over the amount originally asserted. These rights cannot be reinstated. All steps were taken in entire good faith in reliance upon a legislative offer duly enacted and approved by the Governor and pursuant to directions of the Bankruptcy Court. Had the additional steps required by the second Act not been taken at once, as the Acts demanded, the offer would necessarily have lapsed, on account of the 25-day time limit.

The mandate of the Circuit Court at least should have provided that if the Acts were later held invalid, the Bankruptcy Court should hear and determine the tax claims for the years in respect of which rights had been lost in the State tribunals, due to the attempted compliance with the Settlement Acts. This the mandate failed to do. By no other means was it possible to provide for a substantial restoration of the *status quo ante*.

Short of relief by this Court, the Bankruptcy Court must either fix immediately and without more the taxes and penalty interest at the full amount of twenty millions* (as the Circuit Court's mandate and opinion seem to imply), or it must disregard the statement in the opinion (721) that the State will be entitled to "immediate collection" of the whole, and send the years involved to a master for consideration and determination. This will take an extended time, and only upon the entry of a final order on the master's report and an appeal from that order (for an appeal would assuredly follow) will the right of the Bankruptcy Court to redetermine the claimed taxes be settled. Any equitable plan of reorganization will thus be seriously delayed and greatly prejudiced. The error which the Circuit Court has committed in leaving the Trustees and the Bankruptcy Court in such a prejudicial dilemma should be corrected by this Court, in order to avoid unnecessary delay in settling the affairs of the debtor and to insure orderly procedure toward an early reorganization. See *Public Utilities Comm'n.* v. *Gas Co.*, 317 U. S. 456, 462-3.

The decision of this Court in *Arkansas Commission* v. *Thompson*, 313 U. S. 132, does not require the denial of such relief. In that case this Court left open the question whether a District Court in which railway reorganization proceedings under Section 77 are pending has jurisdiction to adjudicate claims filed for State taxes. See *Lyford, Trustee* v. *City of New York* (Cir. Ct. of App., 2nd Cir.), 137 F. (2d) 782, decided August 6, 1943, where the jurisdiction was upheld.

Thus, the situation presents an important question of bankruptcy law which this Court has not passed upon.

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* In addition, penalty interest is alleged to be accruing at 1 per cent per month.

(b)

The Circuit Court upheld the right of the Attorney General to appeal in the name of the State from Order No. 163. By instituting the proceedings in the Chancery Court on behalf of the people and attacking the constitutionality of the statute (thus forcing the State to employ counsel other than the Attorney General to defend one of its own laws) and by his attitude in the bankruptcy proceedings, the Attorney General so far departed from his statutory duties of upholding the action of the legislature and the executive as to forfeit his right to speak for the State. His action was in sharp conflict with that of the legislature, the Governor and the State's chief fiscal officer, the Comptroller, charged by statute with superintending the collection of the revenues and instituting and directing the prosecution of suits for the recovery of all monies due the State, who appeared and consented to the entry of Order No. 163 (79a). Having disqualified himself from acting for the State, the Attorney General had no authority to take an appeal in the name of the State.

Furthermore, the Attorney General in the Bankruptcy Court did not undertake to appear generally but entered a limited and restricted appearance. By the terms of his appearance and by his statements in his affidavit and orally at the hearing, the Attorney General confessedly appeared for only one purpose, namely, to challenge the jurisdiction of the Bankruptcy Court to determine the constitutionality of the Settlement Acts since the issue of constitutionality was pending before the Chancery Court. Under New Jersey law the Attorney General may act in two capacities, as attorney for the people (in which capacity he acted in bringing on the Chancery proceedings) and as Attorney General for the State pursuant to the powers conferred upon him by the legislature (see *infra*, p. 22). *Wilson*,

Atty.-Gen. v. *State Water Supply Commission*, 84 N. J. Eq. 150, 93 Atl. 732 (1914). Under the circumstances here presented, the one is in sharp conflict with the other. Clearly at the hearing on Order No. 163 the Attorney General purported to act and was acting for the people and not for the State. The State admittedly was a party to these proceedings, and had the Attorney General appeared for the State there would have been no purpose in his entering a special and limited appearance, as he did. The very character of the appearance entered and the position he took at the hearing indicates that he appeared in his capacity as attorney for the people, and that he was not appearing and was without authority to speak for the State.

The Bankruptcy Court acquiesced in the contention of the Attorney General and did not pass upon the constitutionality of the Acts (23a). It entered Order No. 163 on a principle of New Jersey law that a duly enacted legislative offer open for a limited period of time (three days when the order was entered) must be taken as "the law of the State" (94a, 222a), a principle of local law not requiring a determination of constitutionality. Thereupon, in spite of his limited appearance for the people and the Court's concurrence in his position, the Attorney General, purporting to act for the State although his action was sharply in conflict with his statutory duty as Attorney General to uphold the acts of the State legislature, appealed in the name of the State as though he had appeared generally for the State. Thus the State was put in the anomalous position of attacking the validity of its own statute. The Attorney General had no standing to take such an appeal.

The case presents a question of orderly Federal procedure which this Court has not passed upon.

(2) The decision of the Circuit Court of Appeals probably is in conflict with the principles established by the applicable decisions of this Court.

The situation set forth in (1)(a), *supra*, also raises as a ground for allowance of the writ that the decision below is probably in conflict with established principles of this Court. Under the decision and mandate, the Trustees apparently are without any remedy to contest the legality and amount of the taxes as originally assessed, should the Court of Errors and Appeals hold the Settlement Acts unconstitutional. As indicated above, p. 11, even upon the hypothesis adopted by the Chancery Court there is involved a minimum potential saving of $5,951,000. Under the established decisions of this Court, the lack of any opportunity to be heard on the merits of a claim for taxes constitutes the taking of property without due process. *Brinkerhoff-Faris Co.* v. *Hill*, 281 U. S. 673 (1930); *Londoner* v. *Denver*, 210 U. S. 373, 385-6 (1907); *Central of Georgia Railway Co.* v. *Wright*, 207 U. S. 127 (1907); *Security Trust Co.* v. *Lexington*, 203 U. S. 323 (1906).

(3) The Circuit Court of Appeals has decided an important question of local law in a way probably in conflict with applicable local decisions.

It is the established rule under the New Jersey decisions that a statute later declared unconstitutional is not void *ab initio*, but that steps taken in good faith under it are effective, certainly in the absence of any prior challenge to its validity. *Allison* v. *Corker*, 67 N. J. L. 596; *Lang* v. *Bayonne*, 74 N. J. L. 455; *Attorney General* v. *McGuinness*, 78 N. J. L. 346; *Eastwood* v. *Russell*, 81 N. J. L. 672; *In re Public Utility Board*, 83 N. J. L. 303. The final steps taken in compliance with the 1942 Amendment followed the institution of the Chancery Court pro-

ceedings. But the action taken pursuant to the 1941 Settlement Act occurred before any challenge was made, and, indeed, before any notice that a challenge was under contemplation. Pursuant to Order No. 123, the debtor in good faith changed its position by delivering a binding written undertaking, expressly waiving all further rights to contest, and allowing the time to lapse within which it might contest the taxes for 1937, 1938, 1939, 1940 and 1941. The written undertaking was required to "be in such form as the Attorney General shall prescribe", and the waivers and discontinuances "in such form as the Attorney General may require". The approval of the Attorney General was, however, purely ministerial, and the inaction of the Attorney General with respect to the sufficiency of the documents did not as a matter of contract law deprive the documents of legal effect, if in strict compliance with the statutory offer, as in fact they were. The Attorney General, when called upon by the petition for Order No. 135 to speak as to the sufficiency of the action taken under Order No. 123, remained silent. He did not challenge the sufficiency of any of the documents submitted pursuant to Order No. 123, nor did he raise in the Bankruptcy Court any question as to the propriety of the acceptance of the first Settlement Act.

Order No. 163 was entered and the action taken pursuant to it occurred after the constitutionality of the Settlement Acts was challenged, but before any decision of unconstitutionality was made. When the challenge was made the debtor and the Bankruptcy Court were already committed to a course of conduct dictated by the earlier change of position. In such circumstances the Court was justified, if not required, to treat the two Settlement Acts as "the law of the State", even though, in the meantime, a challenge of unconstitutionality had been raised prior to the entry of the order. In *Attorney General* v.

McGuinness, 78 N. J. L. 346, the Court of Errors and Appeals apparently considers the presence of a challenge of no consequence (see p. 27, *infra*). However this may be, the presence of a challenge is not material where the action finally taken grows out of and is required by a change of position made in good faith prior to any challenge. In reversing Order No. 163 the Circuit Court departed sharply from this principle of local law.

Furthermore, on account of the 25-day time limit in the amendatory Settlement Act, the Court was forced to decide what was "the law of the State" immediately and without awaiting action by the State Courts, or else allow the statutory offer to lapse. It expressly refrained from passing on the constitutionality of the statute, but in effect declared that, regardless of any later adverse ruling, it was nevertheless the law of the State until held invalid (94a, 222a). Confronted with the situation before it, the Court was not only justified but required to determine what was the local law of New Jersey, and its determination is binding upon the parties before it. *Meredith et al.* v. *City of Winter Haven*, No. 42, October Term 1943, decided by this Court on Nov. 8, 1943, 64 Sup. Ct. 7.

Prayer.

For the foregoing reasons, your petitioners pray that writs of certiorari issue out of this Court to the United States Circuit Court of Appeals for the Third Circuit, commanding said Court to certify and send to this Court on a day to be determined full and complete transcripts of the records of all of the proceedings of such Circuit

Court of Appeals had in these cases, to the end that these causes may be reviewed and determined by this Court; that the judgments of the Circuit Court of Appeals be reversed; and that petitioners be granted such other and further relief as may be proper.

SHELTON PITNEY and WALTER P. GARDNER,
Trustees of The Central Railroad Company of New Jersey, the debtor,

By JOHN W. DAVIS,
MONTGOMERY B. ANGELL,
MARVIN LYONS,
Attorneys for the Petitioners.

Dated, New York, N. Y., December 10, 1943.